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AT a recent meeting of the New York State Bar Association complaint was made of "an already existing and still growing evil, the great bulk and consequent increasing uncertainty of the law." The existence of the evil will not be disputed but the remedy is neither easy of suggestion nor of application. At the meeting mentioned above it was proposed that general rules concerning the writing and publication of judicial opinions should be adopted by judges of the Appellate Courts. This suggestion if acted upon would seem to lead to valuable and practical results, but to the further remedial suggestions offered at the same meeting some objections may be presented. It was proposed to restrict the verbosity of judicial decisions in general and to prevent entirely the delivery of opinions by the court in those cases which involve merely the application of well settled principles of law. Were this as easily accomplished as proposed the practice would still seem to be of doubtful value. The duty of courts of law is primarily to settle disputes and to settle them justly, but a further and by no means unimportant duty is to make such settlements as satisfactory as possible to all parties concerned. The defeated litigant can never perhaps be thoroughly convinced of his error, yet a dismissal of his cause with simply the citation of a decision of which he is probably already cognizant would do little but increase his dissatisfaction with the results of his suit, while questioning the integrity of his lawyer who had failed to see the application of a case when, in the opinion of the court, its application was so obvious as to require no comment.

But apart from this view of the subject it would seem that in most cases the application of previous decisions would not be so clear as to make comment and explanation unnecessary. The

principle may be clear and easy of expression, yet its application may be most difficult and involved; the decision of a stated case may be most definite and yet an interpretation of the law therein contained may well tax the ingenuity of even judicial minds. In such cases the litigant parties are entitled to hear the reasons which led the court to adopt its view of the application of the law and as most cases involve such application and interpretation the proposed change if suitably modified would lose much if not all of its significance.

It was further proposed at the same meeting that opinions should be handed down as the opinions of the court as such, and not as the works of individual judges. It is claimed that this plan if adopted would shorten the opinions, would place responsibility upon all the judges, and would provide against dissenting opinions. This suggestion would seem to make doubtful the attainment of the promised result and at the same time to be open to the gravest objections. Opinions in their new capacity would embody the reasoning of all the judges instead of merely the one who under the present system is its author, while the conclusion would be reached through various and varying processes, according to the disagreement of the judges as to the proper grounds upon which to base their decision. The decision would be the decision of the court, the reasoning would be a *pot-pourri* of legal applications and interpretations, terminating it is true, in one common conclusion, but wanting in the two requisite virtues of brevity and clearness, the attainment of which was the very object in view. Farther than this the weakening of individual responsibility for the doubtful strength of a court acting as a whole is also a matter for question. The author of an opinion is individually responsible for the law therein contained, but under the proposed system this responsibility would be abolished. Dissenting opinions, which now serve to place the minority judges in a true light and which have often materially aided in the logical growth of the law, would, under the new system, totally disappear, and a bare majority of the court would have even a greater influence than is now their privilege. Finally, the loss of valuable opinions and the loss of the authority of the authors' names would seem to negative any benefits which might be derived from the above suggestions. The law as we have it to-day is often found best interpreted in the opinions of our judges and the weight and authority of the opinions are often enhanced by the eminence and reputation of their authors. If this source of legal literature is cut off the science and the art of law will be left with only text books and

magazine articles, while these, especially in this country, are only too often mere digests of the law without even suggestions as to causes and effects. The evil of verbose and prolix judicial opinions may be a crying one, but its remedy would seem to lie more in individual discretion than in such radical action as proposed.

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REFERENCE to arbitration in all disputes of whatever nature will not become possible nor indeed will the principle itself be seriously entertained or relied upon by nations until, either by changes supplementing the rules of international law at present existing, or by treaty, the rules of law are developed so as to render the rights of parties under given conditions capable of being clearly ascertained, and the remedies to be applied certain and such as under all the circumstances will work substantial justice between the governments concerned. In controversies concerning land some period of limitation ought to be fixed upon whereby the adverse possession of territory for a certain length of time should be deemed conclusive evidence as to title, thus placing territorial disputes between nations in a position to be dealt with upon a basis analogous to that upon which private titles to real estate are now adjusted. It is unreasonable to demand or expect that an independent state will consent to refer questions affecting the rights and citizenship of its own subjects, who have been for many years in peaceable possession of a tract of territory in good faith believing they had a right to occupy it, to any tribunal, however eminent, whose decision might be conclusively determined by the contents of some document exhumed from among the refuse of former centuries. The Venezuela Boundary Treaty was of course designed to fit a particular instance and its provisions will have no weight in another case except possibly the authority of precedents. The reported stipulation, however, that exclusive political control of a district for fifty years as well as the actual settlement thereof shall be sufficient to make title by prescription is, under the circumstances, an exceedingly fair and equitable settlement of an otherwise difficult point, and deserves to be acquiesced in and followed by other nations in cases which may arise in future. The interests of society demand that a period be fixed upon after which no evidence of adverse title will be heard. It will be then possible to submit territorial claims to arbitration, knowing that the decision is to be based upon the fact of settlement and actual occupancy and not upon the theoretical interpretation of uncertain documents from the past. In these days of bitter commer-

cial competition between states, and headlong eagerness to embark upon "land grabbing" schemes without pretense of right or shadow of excuse, the rules of law must be definite and the remedy certain and reasonable if arbitration treaties are to be of any avail in averting the ultimate appeal to force.

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THE arbitration treaty, which has been signed by the diplomatic agents of the United States and Great Britain, if newspaper reports are correct, expresses the desire to consolidate the relations of international amity now existing between the two countries and to provide for the perpetuation of these relations in the future. This is not an attempt to establish a permanent international court but to provide for the establishment of special courts as the need for them is felt. In brief, the treaty provides for the peaceable settlement of those questions which would naturally seem to be capable of peaceable settlement without such a treaty, and interposes a barrier which, if unbroken, will serve to delay an immediate recourse to arms in those cases where a peaceable settlement is not possible. The courts created under this treaty, when deciding non-territorial claims, will consist of one neutral judge, assisted by quasi-judges whose chief duties, however, will be to represent the interests of their respective countries by whom they will be appointed, while territorial questions will come before a court composed entirely of quasi-judges of the above description. War is still recognized to be the supreme arbitrator in certain cases, although in those cases where it is not so recognized there would be little reason to fear it even under the present system. By the treaty there is an official establishment of a peace which is already established, an official postponement of a war which in all probability could not be definitely postponed should its causes arise.

Whether or not international intercourse has sufficiently developed to insure the success of such a treaty is a matter for the future to prove. In the meantime, however, and at the present time, it seems as if our efforts should be directed towards the development of trade and commerce between nations instead of merely endeavoring to find new expressions for a peace which by our evident apprehension we show to be of doubtful stability and of an illusionary and uncertain character. International unions, it may be said, will only then be placed upon a safe ground when they are based upon economic conditions which demand and sanction them and not alone upon the perhaps more attractive but less practical ground of peace and good will. The influence of the arbitration treaty for good has

perhaps in the main been already accomplished in furnishing evidence, which indeed should not be despised, of an apparent desire on the part of the two governments for peace; its influence for evil is unknown and can only be foreshadowed by the different motives which have been attributed to its creation, the balancing of international accounts which it seems to have caused, and its possibly detrimental effect upon diplomacy. Indeed, during this exchange of courtesies the two countries seem to be strictly adhering to the old adage, "In time of peace prepare for war," and those who are skeptical as regards universal and perpetual peace under existing conditions are found to be indulging in the thought that "mere names do not alter facts and no amount of legislation can make a reality out of a fiction." The value of the treaty would certainly seem to be sentimental rather than practical and it only remains for us to hope in regard to it that sentiment may play a more important part in international affairs in the future than it has in the past.

On the other hand, the treaty is certainly evidence of the friendly relations now existing between the two countries and expresses the desire that these relations may continue. It may be that the objections urged against it are more technical than real, however well they may seem to be founded on reason and history. The main object is the prevention of war and possibly the delay for which this treaty provides will have a salutary effect upon the minds of the people should the peace now prevailing be ever endangered. The same object, however, might perhaps be attained and with less cause for objection by the mere adoption of a resolution recently offered in the Senate which declares that "the United States favor the principle and practice of international arbitration for the settlement of all questions in difference between them and any other nation, which they may fail to adjust by treaty or diplomatic negotiations," and invites "all civilized nations to make a corresponding and reciprocal declaration to the end that wars between nations may cease and that a universal reign of peace may be inaugurated and perpetually maintained." The practicability of adopting this resolution instead of ratifying the pending treaty of arbitration is a matter for the Senate to decide, but it seems as if such action might be safer and easier and perhaps as efficient as an adoption of the more elaborate and pretentious plan under discussion. The final sanction, other than war, of all international contracts or quasi contracts, whether they take the shape of treaties or resolutions, must be national integrity and honor, and as the main object is an avoidance of war so long as

it is avoided honorably, it seems as though a resolution, all things considered, might be as salutary in its results as a treaty, although it may be thought that a treaty would appeal more strongly to the sense of national honor than a mere resolution. There can be no difference of opinion as to the end in view; it is only the means which are debatable, and those means should be chosen which will afford the greatest efficiency with the least danger and complexity.

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THE frequent attempts to set aside wills upon the ground of undue influence or lack of testamentary capacity, emphasize the importance of the passage of a bill which has been proposed in Connecticut. The bill provides that a person may deposit his sealed will in the Probate Court, whereupon notice of such deposit shall be published, and any one desiring to contest the will upon the ground of a lack of testamentary capacity or undue influence must do so before the death of the maker of the will. The advantages of such a law are obvious. Under the present practice appeals from probate are necessarily protracted, and in the majority of cases the appellant does not improve his condition. Other cases on the docket are delayed for weeks and often for months. The dead man is abused by foe and kin, and the details of his entire life are related, with particular emphasis upon his eccentricities and misdeeds, and are published throughout the community. The public, who have heretofore regarded the man with the highest respect, are asked to heap abuse upon his head. Family secrets are disinterred and the surviving members of the family blush with shame. The testator cannot speak and explain his conduct, so his nearest relatives, who oftentimes have been his worst enemies, try to set aside the last formal declaration in which he has provided for those who were his true friends. Under the proposed law these contests would largely disappear. Unfriendly relatives would seldom attempt to establish a lack of testamentary capacity, and the temptation to use undue influence upon weak-minded men would be lessened. Should contests arise, they would be decided promptly and the great expense incident to the present practice would cease. That such a law would be approved by the courts seems certain; that it would be welcomed by the bar is apparent to those who realize that a lawyer has other duties than fighting cases for the purpose of consuming large estates; that it would command public sanction can scarcely be doubted. It is to be hoped that the Legislature will pass the bill.